

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapter 13-209
Hawaii Administrative Rules

December 8, 2006

SUMMARY

1. § 13-209-3 is amended.
2. § 13-209-4 is amended.
3. A new § 13-209-4.5 is added.
4. A new § 13-209-4.6 is added.
5. § 13-209-5 is amended.
6. A new § 13-209-5.5 is added.

§ 13-209-3 Permitted activities. Hiking and nature study of group size of ten or less are permitted except where restricted pursuant to sections 13-209-4.5 and 13-209-4.6. Hunting is a permitted activity pursuant to hunting rules of the department. [Eff 6/29/81; am JAN 26 2007] (Auth: HRS § 195-5) (Imp: HRS § 195-5)

§ 13-209-4 Prohibited activities. The following activities are prohibited within a natural area reserve:

- (1) To remove, injure, or kill any form of plant or animal life, except game mammals and birds hunted according to department rules;
- (2) To introduce any form of plant or animal life, except dogs when permitted by hunting rules of the department and service animals accompanying their handlers;
- (3) To remove, damage, or disturb any geological or paleontological features or substances;
- (4) To remove, damage, or disturb any historic or prehistoric remains;
- (5) To remove, damage, or disturb any notice, marker, or structure;
- (6) To engage in any construction or improvement;
- (7) To engage in any camping activity or to establish a temporary or permanent residence;
- (8) To start or maintain a fire;
- (9) To litter, or to deposit refuse or any other substance;
- (10) To operate any motorized or unmotorized land vehicle or air conveyance of any shape or form in any area, including roads or trails, not designated for its use;
- (11) To operate any motorized water vehicle of any shape or form in freshwater environments, including bogs, ponds, and streams, or marine waters, except as otherwise provided in the boating rules of the department;
- (12) To enter into, place any vessel or material in or on, or otherwise disturb a lake or pond;
- (13) To engage in commercial activities of any kind in a natural area reserve without a written special-use permit from the board or its authorized representative;
- (14) To have or possess the following tools, equipment, or implements: fishing gear or devices within Ahihi-Kinau natural area reserve, including but not limited to any hook-and-line, rod, reel, spear, trap, net, crowbar, or other device that may be used

§ 13-209-4.5 Closing of areas. The board or its authorized representative, with the approval of the commission, may close or restrict the public use of all or any portion of a natural area reserve for up to two years, when deemed necessary by the commission for the protection of the natural, geological, or cultural resources of the area or the safety and welfare of persons or property, by the posting of appropriate signs indicating the duration, extent, and scope of closure. Closures may be renewed with the approval of the board or its authorized representative and the commission. All persons shall observe and abide by the officially posted signs designating closed areas. [Eff JAN 26 2007] (Auth: HRS § 195-5) (Imp: HRS § 195-5)

§ 13-209-4.6 Visiting hours. The board or its authorized representative, with the approval of the commission, may establish a reasonable schedule of visiting hours for all or portions of a natural area reserve by the posting of appropriate signs indicating the hours during which the natural area reserve may be accessed. All persons shall observe and abide by the officially posted signs designating visiting hours." [Eff JAN 26 2007] (Auth: HRS § 195-5)
(Imp: HRS § 195-5)

§ 13-209-5 Special-use permits. (a) The board or its authorized representative, with the approval of the commission or its authorized representative, may issue permits to conduct activities otherwise prohibited by section 13-209-4 for research, education, management, or for any other purpose consistent with chapter 195, Hawaii Revised Statutes.

(b) No permit may be valid for more than one year from date of issuance. The board may waive this restriction for permits issued to other governmental agencies where the board determines such a waiver to be in the best interest of the State.

(c) All special-use permits shall be subject to standard conditions, as approved by the board, including but not limited to the following:

- (1) The permittee shall adhere to specifications given in the permit application;
- (2) Disturbance of vegetation and wildlife shall be avoided as much as possible;
- (3) Precautions shall be taken to prevent introductions of plants or animals not naturally present in the area. The permittee is responsible for making sure that participants' clothes, equipment, and vehicles are free of seeds or dirt to lessen the chance of introducing any non-native plants or soil animals. Should an infestation develop attributable to permittee, the permittee is responsible for eradication by methods specified by the department;
- (4) This permit is not transferable;
- (5) This permit does not exempt the permittee from complying with any other applicable rule or statute;
- (6) The State of Hawaii shall be released and held harmless from any and all liability for injuries or death, or damage or loss of property however occurring during any activity related to this permit.

(d) The board or its authorized representative may attach special conditions on the special-use permit, including but not limited to reporting requirements, limitations on the size of groups or the length of time for which the permit is valid. Failure to comply with any of these conditions shall render a permit void.

§ 13-209-5.5 Applications for special-use permits. (a)

All applications for special-use permits shall be submitted in writing to the board or its authorized representative on the form prescribed by the department. The application shall contain the following information:

- (1) Name of applicant, and if relevant, affiliation and title;
- (2) Contact information, including name of primary contact, mailing address, phone number, and if available, email address;
- (3) The period of time for which the permit is requested, not to exceed one year unless seeking a waiver pursuant to section 13-209-5(b);
- (4) The reserve(s) involved;
- (5) A map illustrating the reserve and the location within the reserve of the proposed special-use;
- (6) A description of the proposed special-use;
- (7) A discussion of how the proposed special-use satisfies subsections (b)(1) through (b)(6);
- (8) An assessment of the potential environmental impact the special-use may have on the reserve or the surrounding area;
- (9) Signature of the applicant;
- (10) An application fee of \$50, however, the board or its authorized representative may waive the application fee if, in their opinion, the waiver is in the public interest or benefits the State; and
- (11) Any other information as determined by the department.

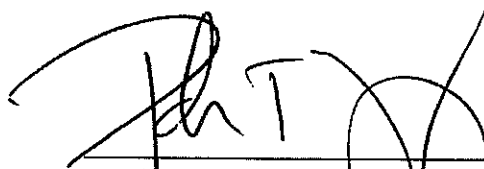
(b) In evaluating the merits of an application for a special-use permit, the board or its authorized representative shall apply the following criteria:

- (1) The proposed special-use cannot be conducted elsewhere;
- (2) The proposed special-use is consistent with the purpose and objectives of the natural area reserve system;
- (3) The proposed special-use is consistent with the management plan developed for the reserve;
- (4) The proposed special-use provides a benefit (direct

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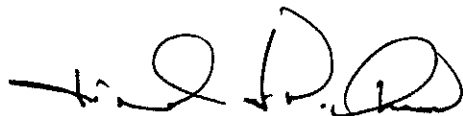
Amendments to Chapter 13-209, Hawaii Administrative Rules, on the Summary page dated December 8, 2006, were adopted on December 8, 2006, following public hearings held on Kauai, Oahu, Maui, and Hawaii on June 28, 2006, after public notice was given in the Honolulu Star-Bulletin, West Hawaii Today, the Hawaii Tribune-Herald, the Maui News, and the Garden Island, on May 28, 2006.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.



PETER T. YOUNG
Chairperson, Board of Land and
Natural Resources

APPROVED AS TO FORM:



Deputy Attorney General



LINDA LINGLE
Governor
State of Hawaii

Date: JAN 13 2007

Filed

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